

**Constitution Revision Commission  
Education Committee  
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 71

Relating to: EDUCATION, School districts; school boards

Introducer(s): Commissioner Donalds

Article/Section affected: Article IX, section 4

Date: January 17, 2018

|    | REFERENCE | ACTION             |
|----|-----------|--------------------|
| 1. | ED        | <b>Pre-meeting</b> |
| 2. | _____     | _____              |

---

**I. SUMMARY:**

Amends Article IX, §4(b) by adding language to:

Provide that nothing in the constitution may be construed to limit the legislature from creating alternative processes to authorize the establishment of charter schools within the state by general law.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

Presently, the creation of charter schools in Florida is governed by the provisions of Chapter 1002, Part III, Florida Statutes. The vast majority of charter schools must apply to and be approved by local school boards.<sup>1</sup> Other types of charter schools can be authorized such as state universities to sponsor charter lab schools<sup>2</sup> and “schools of hope” can be authorized near or within the vicinity of persistently low performing schools.<sup>3</sup>

Presently, the Florida Constitution does not directly address the processes to authorize the establishment of charter schools in Florida. However, Article IX, Section 4(b) of the Florida Constitution provides that “the school board shall operate, control and supervise

---

<sup>1</sup> Section 1002.33, FS

<sup>2</sup> Section 1002.32, FS

<sup>3</sup> Section 1002.333, FS

all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein.”

In 2008, courts ruled that the statute creating the “Florida Schools of Excellence Commission”<sup>4</sup> with the power to authorize charter schools throughout Florida violated Article IX, Section 4(b) of the Florida Constitution.<sup>5</sup> The court held that the statute prevented the school boards from operating, controlling, and supervising the charter schools approved by the commission and was facially unconstitutional.<sup>6</sup>

## **B. EFFECT OF PROPOSED CHANGES:**

The proposal allows future legislation relating to the processes used to authorize the establishment of charter schools without being subject to the kind of constitutional challenge described in Duval.<sup>7</sup> This will give the legislature more flexibility in determining the permissible ways for charter schools to be established in Florida.

The effect on the educational system is indeterminate. The provision does not change the current system or statutes, it simply provides that some future changes to the charter school system would not be in conflict with Article IX, Section 4(b) of the Florida Constitution. While it is foreseeable that the legislature could create new methods for the establishment of charter schools such as the state-wide “Florida Schools of Excellence Commission,” the ultimate impact of these new processes is unknown at this time.

## **C. FISCAL IMPACT:**

None.

## **III. Additional Information:**

### **A. Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

### **B. Amendments:**

None.

### **C. Technical Deficiencies:**

None.

---

<sup>4</sup> Section 1002.335, FS (2006)

<sup>5</sup> Duval County School Board v. State Board of Education, 998 So. 2d 641 (1st DCA 2008)

<sup>6</sup> Id.

<sup>7</sup> Id.

**D. Related Issues:**

None.